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In re Application of :
MAZZIOTTI, Philip :
Application No.: 10/564,072 :
PCT No.: PCT/US04/21916 : DECISION ON
Int. Filing Date: 09 July 2004 : PAPERS UNDER 37 CFR 1.43
Priority Date: 10 July 2003 :
Attorney Docket No.: 479.0004 :
For: JOINT SEAL

This decision is issued in reply to applicant's "Response to Decision on Submission of Declaration Executed by Guardian" filed 11 December 2006 which is being treated as a request under 37 CFR 1.43. No petition fee is required.

BACKGROUND

On 09 July 2004, applicant filed international application PCT/US04/21916, which claimed a priority date of 10 July 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 10 January 2006.

On 10 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, *inter alia*, by: the basic national fee; a copy of the international application; and an application data sheet.

On 01 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 03 July 2006, applicant filed a declaration executed by Michele Mazziotti on behalf of sole inventor, Philip J. Mazziotti.

On 14 November 2006, the Office of PCT Legal Administration mailed "Decision on Submission of Declaration Executed by Guardian" requesting the status of sole inventor, Philip J. Mazziotti.

On 11 December 2006, applicant filed "Response to Decision on Submission of Declaration Executed by Guardian."

DISCUSSION

35 U.S.C. 117 *Death or Incapacity of Inventor*, states:

Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

37 CFR 1.43 *When the Inventor is insane or legally incapacitated*, states, in part:

In case of the death of the inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 03 July 2006 was executed by Michele Mazziotti as "guardian" for the incapacitated inventor, Philip J. Mazziotti. The declaration is acceptable under 37 CFR 1.43 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.43 are **ACCEPTED**.

The application has an international filing date of 09 July 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **03 July 2006**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.



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